

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DEMARO L. BROWNLEE,

Petitioner,

VS.

Case No. 20-cv-1050-DWD

ILLINOIS DEPARTMENT OF
CORRECTIONS,

Respondent.

MEMORANDUM & ORDER

DUGAN, District Judge:

Petitioner Demaro L. Brownlee, an inmate in the custody of the Illinois Department Corrections currently incarcerated at Shawnee Correctional Center, brings this habeas corpus action pursuant to 28 U.S.C. § 2254, alleging that he is not receiving credit for time served before his transfer to the Illinois Department of Corrections.

This case is before the Court for preliminary review of the petition pursuant to Rule 4 of the FEDERAL RULES GOVERNING SECTION 2254 CASES IN THE UNITED STATES DISTRICT COURTS. Rule 4 directs the judge who receives a petition to promptly examine it, and, “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition.”

Brownlee named the Illinois Department of Corrections as the respondent in his petition, but the proper respondent in a § 2554 action is the warden of the facility in which the petitioner is incarcerated. *See* Rule 2(a) of the FEDERAL RULES GOVERNING SECTION 2254 CASES IN THE UNITED STATES DISTRICT COURTS. Because Brownlee is incarcerated at

Shawnee Correctional Center, Lu Walker, Acting Warden of Shawnee Correctional Center, will be substituted for the Illinois Department of Corrections as the respondent.

With respect to the allegations in Brownlee's petition, inmates incarcerated as a result of a state court judgment may pursue relief from an unconstitutional sentence by filing a § 2254 petition. It is not plainly apparent that Brownlee is not entitled to habeas relief, and, without commenting on the merits of the claims presented, the Court concludes that the petition survives preliminary review.

CONCLUSION

For the above-stated reasons, Lu Walker, Acting Warden of Shawnee Correctional Center, is substituted as Respondent in this action. Respondent Walker is **ORDERED** to answer or otherwise respond to the petition (Doc. 1) on or before January 14, 2021. Service upon the Illinois Attorney General, Criminal Appeals Bureau, 100 West Randolph, 12th Floor, Chicago, Illinois 60601, shall constitute sufficient service.

Petitioner is **ADVISED** of his continuing obligation to keep the Clerk of Court and Respondent informed of any change in his address during the pendency of this action. Notification of any changes of address must be made in writing and within 7 days of any transfer or other change in address. Petitioner is **WARNED** that failure to provide notice may result in dismissal of this action pursuant to Federal Rule of Civil Procedure 41(b).

SO ORDERED.

Dated: December 14, 2020

s/David W. Dugan
DAVID W. DUGAN
United States District Judge